

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:18-cr-2672-WJ

JAVIER JAQUEZ,
FREDDIE J. SANCHEZ, and
KEVIN GARCIA-SALAS,

Defendants.

MEMORANDUM OPINION AND ORDER ON DEFENDANT'S
MOTION TO PRESERVE RIGHT TO JURY TRIAL

THIS MATTER is before the Court on Defendant Kevin Garcia-Salas's Motion to Preserve Right to Jury Trial [Doc. 96], filed September 24, 2019. Defendant requests the Court inform the jury of "its right and obligation to acquit if it believes a conviction would be fundamentally unjust" and of "the sentencing ramifications that would follow a guilty verdict." Doc. 96 at 1. The Tenth Circuit, however, has made clear that Defendant's requests are improper:

we state once again that a criminal defendant is not entitled to have the jury instructed that it can, despite finding the defendant guilty beyond a reasonable doubt, disregard the law. Moreover, it is firmly established that when the jury has no sentencing function . . . it should reach its verdict without regard to what sentence might be imposed.

United States v. Courtney, 816 F.3d 681, 686 (10th Cir. 2016) (internal quotation marks and citations omitted). Defendant's requests are foreclosed by controlling case law.

IT IS THEREFORE ORDERED that Defendant's Motion to Preserve Right to Jury Trial [Doc. 96] is **DENIED**.



CHIEF UNITED STATES DISTRICT JUDGE